

# EXHIBIT 3

## **DECLARATION OF KATHY R. BILES**

I, Kathy R. Biles, am over the age of 21, of sound mind, and testify to the following based on my personal knowledge:

1. I am currently employed by the Moose Lodge 878 in Owensville Missouri (the "Moose Lodge").
2. The Moose Lodge has, for quite some time now, allowed TNT Amusement, Inc. ("TNT") to place various devices in the Moose Lodge.
3. Currently, the Moose Lodge has multiple TNT devices placed and in operation at its location, including a claw machine, an electronic bag toss-type game, a juke box, an electronic dart board system (we hold dart leagues), and an ATM machine.
4. Earlier this year, the Moose Lodge also had a TNT Pac-Man video game in its location.
5. At some point towards the beginning of this year, TNT came and removed TNT's Pac-Man game from the Moose Lodge. As far as I am aware, that is the only TNT device that has been removed from the Moose Lodge in recent memory.
6. To the best of my recollection today, I don't recall specifically requesting TNT to remove TNT's Pac-Man game. But regardless, that Pac-Man game was rarely ever played and was never profitable.
7. At some point after TNT removed TNT's Pac-Man game from the Moose Lodge, the Moose Lodge, with approval from our national organization, placed four devices distributed by Torch Electronics, LLC ("Torch"). Those Torch devices were installed at the Moose Lodge, based on my best recollection, sometime in February 2024.

8. The Moose Lodge did not need to have TNT remove TNT's Pac-Man device to make room for the Torch devices. In fact, if the Pac-Man device was profitable and the Moose Lodge wanted to have it reinstalled, we could make room for the Pac-Man device regardless of the presence of the four Torch devices. I, however, have no desire to ask for TNT's poorly performing Pac-Man device to be reinstalled at the Moose Lodge.

9. On or around August 28, 2024, TNT representative Donna Havey, along with another female representative of TNT whose name I do not recall, came in person to the Moose Lodge to speak with me.

10. Donna Havey put a written declaration or some other form of written statement TNT or TNT's attorney drafted that would have had me, on behalf of the Moose Lodge, declare that TNT had suffered some type or amount of damages from the removal of TNT's device from the Moose Lodge and that the removal of TNT's device was for the purpose of making room for Torch's devices. For reasons explained below, I am forced to paraphrase and rely on my best recollection of what was stated in the document Donna Havey asked me to sign. I also recall not agreeing with statements TNT wanted me to make in the document, most specifically the statement wanting me to attest TNT lost money on the Pac-Man device.

11. I informed Donna Havey that as the Administrator I don't have independent authority to sign such a document, and I asked her if she could leave me the document so that I could present it to the officers to have them review the document and either approve or reject my signing it. Donna Havey then told me that she was not allowed to leave the document with me.

12. Donna Havey's response and unwillingness to allow me to keep the document TNT wanted me to sign was a further red flag for me.

13. Donna Havey took the document TNT wanted me to sign with her when she left.

14. During this same exchange, Donna Havey voiced her opinion that she and TNT believed Torch's devices were illegal. I responded generally that I did not share TNT's opinion.

15. Following this exchange, I assumed we wouldn't hear from TNT again about this issue.

16. However, earlier today I received a subpoena from TNT and a letter by Richard Finneran, who represents TNT in a lawsuit against Torch. The letter was dated September 9, 2024. In the letter, Mr. Finneran explains TNT's subpoena requires me to appear in person in downtown St. Louis in the U.S. District Court for the Eastern District of Missouri on September 26, 2024, at 10:00 a.m. for the purpose of giving in-person testimony.

17. Mr. Finneran's letter further states it may be "possible, however, that there may be alternative to [my] having to appear in person" and he would be willing to discuss those alternatives with me. I have not spoken with Mr. Finneran, but to the extent one proposed alternative would be to sign the same document TNT wanted me to sign before, I cannot because I do not agree with the representations TNT wanted me to make in that document.

18. I do not understand why my testimony is necessary or why TNT believes it needs me to appear in court on September 26<sup>th</sup>, but I would prefer not to have to drive the hour and forty five minutes each way to appear in court.

19. I declare under penalty of perjury that the foregoing is true and correct.

Executed September 12, 2024.



Kathy R. Biles

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